

SUPREME COURT OF WISCONSIN

CASE NO.: 2003AP1878-CR

COMPLETE TITLE:

State of Wisconsin,
Plaintiff-Respondent,
v.
Henry G. Wagner,
Defendant-Appellant-Petitioner.

REVIEW OF A DECISION OF THE COURT OF APPEALS
(no cite)

OPINION FILED: June 2, 2005
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: March 30, 2005

SOURCE OF APPEAL:

COURT: Circuit
COUNTY: Milwaukee
JUDGE: Richard J. Sankovitz

JUSTICES:

CONCURRED:
DISSENTED:
NOT PARTICIPATING:

ATTORNEYS:

For the defendant-appellant-petitioner, there were briefs by *John T. Wasielewski* and *Wasielewski & Erickson*, Milwaukee, and oral argument by *John T. Wasielewski*.

For the plaintiff-respondent, the cause was argued by *Jeffrey J. Kassel*, assistant attorney general, with whom on the brief was *Peggy A. Lautenschlager*, attorney general.

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2003AP1878-CR
(L.C. No. 01CF5884)

STATE OF WISCONSIN

:

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FILED

JUN 2, 2005

Cornelia G. Clark
Clerk of Supreme Court

REVIEW of a decision of the Court of Appeals. *Dismissed as improvidently granted.*

¶1 PER CURIAM. Henry G. Wagner petitioned for review of the court of appeals' summary disposition, State v. Wagner, No. 2003AP1878-CR, unpublished order (Wis. Ct. App. August 27, 2004), that affirmed a judgment convicting Wagner of one count of armed robbery. The court of appeals concluded that statements made by Wagner while the West Allis Police Department officers were booking him fell within the routine booking exception to Miranda.¹

¹ Miranda v. Arizona, 384 U.S. 436 (1966).

¶2 We accepted review to determine the scope of the "booking exception" to the requirement that police give Miranda warnings prior to questioning a suspect while in custody. After examining the record and the briefs of the parties, and after hearing oral argument, we conclude that the petition for review was improvidently granted. Because it is not clear whether the officer limited the questioning to the booking form or whether follow-up questions were asked, and because the record is silent as to which of Wagner's statements were volunteered or in response to police questioning, we conclude that this case does not present the issue for which we granted review; therefore, we dismiss the petition for review.

By the Court.—The review of the decision of the court of appeals is dismissed as improvidently granted.

